

**CONSULTANT CONTRACT
PURSUANT TO RETAINER AGREEMENT
FOR PROFESSIONAL CONSULTING SERVICES
SUPPLEMENT NO. OSU-___-P-11-
OREGON STATE UNIVERSITY**

November 4, 2011

This CONSULTANT CONTRACT (the “**Contract**”) is entered into between:

the Consultant

Phone:
FAX:

and the Owner The STATE OF OREGON acting by and through
the STATE BOARD OF HIGHER EDUCATION on behalf of
Oregon State University
Procurement and Contract Services Phone: (541) 737-7694
644 SW 13th Street
Corvallis OR 97333-4238 FAX: (541) 737-2170

(collectively, the “**Parties**”) pursuant to that certain Retainer Contract entered into between the Parties on February 1, 2011 (the “**Retainer Contract**”). All defined terms not defined herein shall be defined per the terms of the Retainer Contract. For good and valuable consideration, the Parties agree as follows:

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DESCRIPTION OF THE PROJECT: The project to which this Contract pertains is described as follows: Reser Stadium and Prothro Field Turf Replacement (the “**Project**”).

1. SERVICES TO BE PERFORMED: The Consultant shall perform the following services on the Project: Design Development through Construction Administration for the replacement of the existing synthetic turf at Reser Stadium and replacement of the existing natural grass with synthetic turf at Prothro Field, including new sports lighting to be installed at Prothro Field on the OSU Campus in Corvallis, Oregon (the “**Services**”). The Consultant agrees to perform the Services according to the terms and conditions of this Supplement and the Retainer Contract, and the Parties agree that the Retainer Contract is incorporated into this Supplement, as if fully set forth herein. All design Services shall be performed in compliance with the Oregon State University Design Criteria in effect as of the date of this Supplement.

A. Design Development

The Consultant shall, in consultation with the Owner and the Owner’s additional design professionals, and in compliance with the Design Criteria:

1. Prepare drawings and other documents to fix and describe the size and character of the entire Project as to civil, architectural and electrical systems materials and appearances, and such other essentials as may be appropriate and in accordance with governing codes and ordinances;
2. Verify, by on-site inspection unless specifically stated otherwise by the Owner, prior to completion of the Construction Documents Phase, existing conditions as required to address significant constructability issues;
3. Ensure that the Project complies with the State of Oregon Structural Specialty Code and with the American with Disabilities Act Accessibility Guidelines (ADAAG), latest version, and allows for access to programs, activities, and services in the most integrated setting possible (the Owner will be responsible for review of accessibility and interpretation of ADAAG for compliance with Federal requirements);
4. Submit to the Owner, for approval, an independent cost estimate of probable Direct Construction Cost of the Project based upon the current unit costs referred to above, as applied to the final design, and, should Owner obtain a separate cost estimate, consult with and assist the Owner in comparing and reconciling the independent cost estimate with the Owner's separate cost estimate, and be responsible to meet the Project budget requirements;
5. Assist the Owner to file the required documents for the approval of various governmental agencies having jurisdiction over the Project (the Owner shall pay for all required appeals and plan review fees);
6. Submit to the Owner the following documents, information and other data:
 - a. one-line diagrams for electrical systems design(s);
 - b. complete outline specification and Project manual;
 - c. recommendations for additive alternates equivalent to 10% of the base bid estimate;
 - d. recommendations for construction phasing to ensure continued operation of Owner's activities;
 - e. equipment layouts showing location, size, and configuration of all equipment in the Project as applicable; and
 - f. an up-date of the Fire and Life Safety requirements resulting from previous reviews with the City of Corvallis if applicable.

B. Construction Documents Phase

Upon notification of the Owner's approval of the Services performed by the Consultant under the Design Development Phase and upon written authorization from the Owner to proceed, the Consultant shall, in consultation with the Owner and in compliance with the Design Criteria:

1. Prepare working drawings and specifications, setting forth all necessary plans, elevations, and construction details, descriptions of materials and equipment, methods of installation, and standards of workmanship;
2. Ensure that the Project complies with the American with Disabilities Act Accessibility Guidelines (ADAAG), latest version, and allows for access to programs, activities, and services in the most integrated setting possible (the Owner will be responsible for review of accessibility and interpretation of ADAAG for compliance with Federal requirements);
3. Prepare Construction Documents as may be required to expedite the Work in phases so as to take maximum advantage of weather and availability of facilities for demolition and reconstruction;
4. Prepare specifications setting forth descriptions of materials and equipment, methods of installation, and standards of workmanship, and include in the appropriate section of Division 1 of the specifications a complete listing of all warranties required under the technical portions of the specifications;
5. Develop all required bidding information;
6. Provide the Owner 5 sets of the 100% complete Project manual including specifications and drawings, for review and approval prior to advertising the Project for bid;
7. Submit to the Owner, for approval, an independent cost estimate of probable Direct Construction Cost of the Project, as applied to the final design, and, should Owner obtain a separate cost estimate, consult with the Owner in comparing and reconciling the independent cost estimate with the Owner's separate cost estimate, and be responsible to meet the Project budget requirements;
8. Assist Owner to file the required documents for the approval of various governmental agencies having jurisdiction over the Project (Owner shall pay for all required plan review fees);
9. Prepare bidding documents with 10% additive alternates.
10. Submit to the Owner the following documents, information and other data:
 - a. final recommendations for colors, materials, and finishes;
 - b. structural calculations as applicable; and
 - c. electrical system design load calculations.

C. Bidding Phase

Upon notification of the Owner's approval of the Services performed by the Consultant under the Construction Documents Phase, and upon written authorization from the Owner to proceed, the Consultant shall:

1. Furnish the Owner with one fully reproducible set of the Construction Documents, including working drawings and specifications, complete as required for bid and construction purposes (for additional copies, see Additional Services);
2. Assist the Owner in soliciting bids;
3. Review the bids and assist in recommending the award of Construction Contract(s) for the Work;
4. Coordinate with the City of Corvallis to ensure that all plan review/building permit criteria are reflected in the final bid documents;
5. Attend the pre-bid conference at the Project site; and
6. If the lowest acceptable bid exceeds the Direct Construction Cost allowance authorized by the Owner by 10%, then at the Owner's request, and at no additional cost to the Owner, modify the drawings and specifications in order that new bids may be solicited and a Construction Contract award made within said allowance.

D. Construction Administration Phase

Commencing with the Owner's issuance of a notice-to-proceed for construction of the Project, the Consultant shall:

1. Attend the pre-construction conference at the Project site;
2. Provide general administration of the Work as contemplated by the provisions of the Construction Contract including assisting the Owner with evaluation of the feasibility of the Contractor-provided project time schedule;
3. Make periodic visits to the Project site with such frequency as to ascertain the progress and quality of the Work, attend progress meetings with the Contractor, determine in general if the Work is proceeding in accordance with the Construction Documents, and submit a written report to the Owner's project manager a written report within five (5) business days of each visit, with copies of each report to the Contractor;
4. Arrange for periodic visits of Consultant's subconsultants to make similar determinations with respect to mechanical and other Work, as applicable;

5. Review and approve or take appropriate action regarding shop drawings and samples submitted by the Contractor with reasonable promptness to cause no delay in the Work;
6. Prepare any supplemental drawings or large-scale details needed to clarify the Construction Documents;
7. Respond promptly to requests from the Contractor for assistance with unforeseen problems so as to minimize the Owner's exposure to claims for delay;
8. Advise and consult with the Owner, issuing appropriate instructions to the Contractor;
9. Check proposed costs of any modifications to the Construction Contract and recommend acceptance or rejection to the Owner (Owner will prepare written change orders);
10. Endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor;
11. Notify the Owner of any Work which does not conform to the Construction Documents and recommend to the Owner that the Contractor stop the Work whenever, in the Consultant's opinion, it may be necessary for the proper performance of the Construction Contract;
12. Issue certification to the Owner and the Contractor when all terms of the Construction Contract have been fulfilled to the Consultant's satisfaction;
13. Conduct on-site observations to determine the date of final completion, receive written guarantees and related documents assembled by the Contractor and issue recommendation for final acceptance and payment;
14. Upon completion of the Work, in cooperation with the Owner's additional design professionals, and at no additional cost to the Owner, update CAD drawings (plans only) and submit to the Owner a complete set of final plans (including "bookplans" of the construction area made to Oregon State University standards) on one or more compact discs compatible with AutoCAD, Latest Release, along with one set of 3 mil Mylar drawings reflecting significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Consultant (the "Record Documents"); and
145. Review the completed Project near the end of any applicable warranty period(s) in order to identify defects of materials or workmanship and issue a written report to the Owner.

2. ADDITIONAL SERVICES

- A. Copies of Construction Documents.** The Consultant shall furnish copies of all Construction Documents to the Owner upon written request, for which the Owner will reimburse the Consultant at the cost of reproduction if in excess of the number specified in Section I.D.
- B. Conditions Required to Support Additional Compensation.** The Consultant shall be paid, subject to executed amendments or supplements, for extra expenses and services the Consultant incurs or provides due to any of the following:
1. Substantial changes are ordered by the Owner after the Owner has acknowledged the acceptance of one or more of the planning phases described above (except changes which are ordered for the purpose of maintaining the Direct Construction Cost of the Project within the allowance specified above).
 2. Damage occurs as a result of fire or other casualty to the structure.
 3. The Contractor becomes delinquent or insolvent.
 4. The Owner requests detailed demolition drawings of existing structure(s) or if documentation must be made for salvage of existing materials, except as may be required to ensure that new construction may be fit to existing construction.
 5. The Owner requests the selection and specification of furnishing(s) outside the scope of the Projects' direct construction allowance;
 6. The Owner requests Additional Services not identified under the Basic Services provision of this Agreement, such as study models, renderings, etc.;
 7. The Owner requests that the Consultant provide design Services to have the Project LEED certified;
 8. The Owner requests that the Consultant provide design Services associated with specialized signage for the Project.

The Project description, scope of the Services, and the fee breakdown are outlined in the proposal dated _____, signed by _____ (the "**Proposal**"). The Proposal is attached to this Supplement as **Exhibit 1** and is incorporated herein by this reference.

The Consultant shall perform the Services in order to achieve the construction schedule as follows:

Prothro Field Construction —March 1, 2012 – June 16, 2012.
Reser Stadium Construction — June 17, 2012 —August 20, 2012

3. INCORPORATED DOCUMENTS. The Supplement, the Retainer Contract and the Proposal are all intended to be complementary. However, any conflicts or discrepancies will be resolved utilizing the following descending order of precedence: 1) this Supplement, excluding the Retainer Contract and the Proposal; 2) the Retainer Contract; and 3) the Proposal.

4. COMPENSATION. The Owner will compensate the Consultant for Services and reimburse the Consultant for direct expenses incurred by the Consultant in the performance of the Services (the "Reimbursable Expenses") on a "time and materials" basis in accordance with the Retainer Contract and the provisions of the Supplement.

The Maximum Compensation for the Consultant's Services including the Reimbursable Expenses is \$_____.00. This amount includes \$_____.00 for Basic Services and \$_____.00 for Reimbursable Expenses.

Payments to the Consultant for such Services performed and invoiced will be made for each phase, with final payment for each phase subject to written acceptance of the phase by the Owner. The total of all payments for Services shall not exceed the maximum amount set forth above, and the total of all payments for Reimbursable Expenses shall not exceed the maximum amount set forth above. The total of all such payments, for Services and Reimbursable Expenses, shall not exceed the Maximum Compensation. Owner reserves the right to retain up to five percent (5%) of the compensation limit set forth for each phase, subject to Owner's acceptance of the Services and any deliverables for each phase. Notwithstanding "not to exceed" limits established for each phase of Services, should an individual phase of design, beginning with Schematic Design and including Reimbursable Expenses, be completed without reaching the not-to-exceed limit for that phase, the balance remaining will be transferred to the next phase of work in succession through Project completion. At the completion of the Project, any remaining balance will revert to the Owner.

A. Design Development Phase: not to exceed \$_____.00.

B. Construction Documents Phase: not to exceed \$_____.00.

C. Bidding Phase: not to exceed \$_____.00.

D. Construction Administration Phase: not to exceed \$_____.00.

The Owner will compensate the Consultant for Additional Services performed, whether directly or through its Consultants, beyond the scope of the Basic Services described above, based on hourly rates for Consultant personnel or Consultants, plus Reimbursable Expenses, in accordance with the following schedule of charges, but only when the Owner has given prior written authorization and the Parties have executed an amendment to this Contract.

_____: (Consultant)

Principals\$ ____/hr
Senior Architectural Designer\$ ____/hr
Architectural Designer\$ ____ - ____/hr
Project Manager\$ ____ - ____/hr

Production Personnel/Project Architect\$ ____ - ____/hr
Clerical\$ ____/hr

CONSULTANTS:

_____ **[DRAFTER'S NOTE: CONSULTANT #1]**
.....\$ ____/hr
.....\$ ____/hr

_____ **[DRAFTER'S NOTE: CONSULTANT #2, #3, ETC.]**
.....\$ ____/hr
.....\$ ____/hr

Total Maximum Compensation, including the cost of any Additional Services that may be added by amendment, shall not exceed the greater of \$1,000,000 or the maximum allowable under OAR 580-063-0025.

5. KEY PERSONS.

6. TERM. The Supplement is effective on the date it has been signed by every Party hereto and all required approvals have been obtained (the "Effective Date"). No Services shall be performed or payment made prior to the Effective Date. The Consultant shall perform its obligations according to the Supplement, unless terminated or suspended, through final completion of construction and completion of all warranty work. Termination or suspension shall not extinguish or prejudice Owner's right to enforce the Supplement with respect to any breach by the Consultant that has not been cured.

7. TAX COMPLIANCE CERTIFICATION. The Consultant hereby affirms, under penalty of perjury as provided in ORS 305.385(6), that, to the best of the Consultant's knowledge, the Consultant is not in violation of any of the tax laws described in ORS 305.380(4). For purposes of this certification, "tax laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Oregon Department of Revenue under ORS 305.620.

8. INSURANCE REQUIREMENTS.

A. Workers' Compensation – The Consultant, its Sub-consultants, if any, and any other employers providing work, labor or materials under the Supplement are subject employers under the Oregon Workers' Compensation Law and shall either comply with ORS 656.017, which requires such employers to provide Oregon Workers' Compensation coverage for all their subject workers working in Oregon or shall comply with the exemption in ORS 656.126.

B. Commercial General Liability – The Consultant shall obtain, at the Consultant's expense, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to OWNER. This insurance shall include personal injury, products and completed operations, and contractual liability coverage for the indemnity provided under the Supplement and is made on an occurrence basis. Combined single limit per occurrence shall not be less than \$1,000,000.00 for each job site or location.

C. Automobile Liability – The Consultant shall obtain, at the Consultant's expense, Automobile Liability Insurance covering all owned, non owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance. Combined single limit per occurrence shall not be less than \$1,000,000.00.

D. Professional Liability/Errors & Omissions – The Consultant shall provide OWNER with proof of coverage for Professional Liability/Errors & Omissions insurance covering any damages caused by negligent error, omission, or any act in regard to the Project, its plans, drawings, specifications and project manual, and all related work products of the Consultant. The policy may be either a practice-based policy or a policy pertaining to the specific Project. The Professional Liability insurance will have a combined single limit of not less than \$1,000,000.00.

All insurance shall be maintained in full force and effect during the term of the Supplement.

9. OTHER TERMS. Except as specifically modified by the Supplement, all terms of the Retainer Contract remain unchanged and apply to the Project and the Services.

10. EXECUTION AND COUNTERPARTS. The Supplement may be executed in several counterparts, each of which shall be an original, all of which shall constitute the same instrument.

The Consultant hereby confirms and certifies that the representations, warranties and certifications contained in the Retainer Contract remain true and correct as of the Effective Date of this Supplement.

IN WITNESS HEREOF, the Parties have duly executed this Contract as of the Effective Date.

Consultant	STATE OF OREGON ACTING BY AND THROUGH THE STATE BOARD OF HIGHER EDUCATION, on behalf of Oregon State University, Owner
By _____	By _____ Donna A. Thwing
Title _____	Construction Contracts Supervisor, Contracts Officer
Date _____	Date _____
Tax ID _____	

Approved as to Legal Sufficiency:

By: _____
Assistant Attorney General

Date: _____